

Calendar No. 118

108TH CONGRESS
1ST SESSION

S. 1162

To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 2, 2003

Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. WARNER, Mr. ROCKEFELLER, Ms. COLLINS, Mr. REED, Mr. JEFFORDS, Mr. BINGAMAN, Ms. LANDRIEU, Mr. JOHNSON, Mr. HARKIN, Mr. KENNEDY, Mr. PRYOR, Mrs. CLINTON, Mr. CORZINE, Mr. DURBIN, Mr. BREAUX, Mr. EDWARDS, Mr. LIEBERMAN, Mr. REID, Mr. SCHUMER, Mr. LAUTENBERG, Mr. KERRY, Mr. GRAHAM of Florida, Mr. BAUCUS, Mr. SARBANES, Ms. MIKULSKI, Mrs. MURRAY, Mr. LEAHY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. LEVIN, Mr. CARPER, Mr. HOLLINGS, Mr. BIDEN, Mr. SPECTER, Ms. CANTWELL, Mr. DASCHLE, Ms. STABENOW, Mr. DODD, Mr. CONRAD, Mr. VOINOVICH, Mr. AKAKA, Mr. DORGAN, Mr. CHAFEE, Mr. KOHL, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. BAYH) introduced the following bill; which was read the first time

JUNE 3, 2003

Read the second time and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Working Taxpayer
3 Fairness Restoration Act”.

4 **TITLE I—ACCELERATION OF IN-**
5 **CREASE IN REFUNDABILITY**
6 **OF THE CHILD TAX CREDIT**

7 **SEC. 101. ACCELERATION OF INCREASE IN REFUNDABILITY**
8 **OF THE CHILD TAX CREDIT.**

9 (a) IN GENERAL.—Section 24(d)(1)(B)(i) of the In-
10 ternal Revenue Code of 1986 (relating to portion of credit
11 refundable) is amended by striking “(10 percent in the
12 case of taxable years beginning before January 1, 2005)”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall apply to taxable years beginning after
15 December 31, 2002.

16 **TITLE II—REVENUE PROVISIONS**
17 **Subtitle A—Enron-Related Tax**
18 **Shelter Provisions**

19 **SEC. 201. LIMITATION ON TRANSFER OR IMPORTATION OF**
20 **BUILT-IN LOSSES.**

21 (a) IN GENERAL.—Section 362 of the Internal Rev-
22 enue Code of 1986 (relating to basis to corporations) is
23 amended by adding at the end the following new sub-
24 section:

25 “(e) LIMITATIONS ON BUILT-IN LOSSES.—

1 “(1) LIMITATION ON IMPORTATION OF BUILT-
2 IN LOSSES.—

3 “(A) IN GENERAL.—If in any transaction
4 described in subsection (a) or (b) there would
5 (but for this subsection) be an importation of a
6 net built-in loss, the basis of each property de-
7 scribed in subparagraph (B) which is acquired
8 in such transaction shall (notwithstanding sub-
9 sections (a) and (b)) be its fair market value
10 immediately after such transaction.

11 “(B) PROPERTY DESCRIBED.—For pur-
12 poses of subparagraph (A), property is de-
13 scribed in this subparagraph if—

14 “(i) gain or loss with respect to such
15 property is not subject to tax under this
16 subtitle in the hands of the transferor im-
17 mediately before the transfer, and

18 “(ii) gain or loss with respect to such
19 property is subject to such tax in the
20 hands of the transferee immediately after
21 such transfer.

22 In any case in which the transferor is a part-
23 nership, the preceding sentence shall be applied
24 by treating each partner in such partnership as

holding such partner's proportionate share of
the property of such partnership.

“(C) IMPORTATION OF NET BUILT-IN
LOSS.—For purposes of subparagraph (A),
there is an importation of a net built-in loss in
a transaction if the transferee's aggregate ad-
justed bases of property described in subpara-
graph (B) which is transferred in such trans-
action would (but for this paragraph) exceed
the fair market value of such property imme-
diately after such transaction.

“(2) LIMITATION ON TRANSFER OF BUILT-IN
LOSSES IN SECTION 351 TRANSACTIONS.—

“(A) IN GENERAL.—If—

“(i) property is transferred by a
transferor in any transaction which is de-
scribed in subsection (a) and which is not
described in paragraph (1) of this sub-
section, and

“(ii) the transferee's aggregate ad-
justed bases of such property so trans-
ferred would (but for this paragraph) ex-
ceed the fair market value of such property
immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

“(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

“(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.”.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) of the Internal Revenue Code of 1986 (relating to liquidation of subsidiary) is amended to read as follows:

1 “(1) IN GENERAL.—If property is received by a
 2 corporate distributee in a distribution in a complete
 3 liquidation to which section 332 applies (or in a
 4 transfer described in section 337(b)(1)), the basis of
 5 such property in the hands of such distributee shall
 6 be the same as it would be in the hands of the trans-
 7 feror; except that the basis of such property in the
 8 hands of such distributee shall be the fair market
 9 value of the property at the time of the distribu-
 10 tion—

11 “(A) in any case in which gain or loss is
 12 recognized by the liquidating corporation with
 13 respect to such property, or

14 “(B) in any case in which the liquidating
 15 corporation is a foreign corporation, the cor-
 16 porate distributee is a domestic corporation,
 17 and the corporate distributee’s aggregate ad-
 18 justed bases of property described in section
 19 362(e)(1)(B) which is distributed in such liq-
 20 uidation would (but for this subparagraph) ex-
 21 ceed the fair market value of such property im-
 22 mediately after such liquidation.”.

23 (c) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to transactions after February 13,
 25 2003.

1 **SEC. 202. NO REDUCTION OF BASIS UNDER SECTION 734 IN**
 2 **STOCK HELD BY PARTNERSHIP IN COR-**
 3 **PORATE PARTNER.**

4 (a) IN GENERAL.—Section 755 of the Internal Rev-
 5 enue Code of 1986 is amended by adding at the end the
 6 following new subsection:

7 “(c) NO ALLOCATION OF BASIS DECREASE TO
 8 STOCK OF CORPORATE PARTNER.—In making an alloca-
 9 tion under subsection (a) of any decrease in the adjusted
 10 basis of partnership property under section 734(b)—

11 “(1) no allocation may be made to stock in a
 12 corporation (or any person which is related (within
 13 the meaning of section 267(b) or 707(b)(1)) to such
 14 corporation) which is a partner in the partnership,
 15 and

16 “(2) any amount not allocable to stock by rea-
 17 son of paragraph (1) shall be allocated under sub-
 18 section (a) to other partnership property.

19 Gain shall be recognized to the partnership to the extent
 20 that the amount required to be allocated under paragraph
 21 (2) to other partnership property exceeds the aggregate
 22 adjusted basis of such other property immediately before
 23 the allocation required by paragraph (2).”.

24 (b) EFFECTIVE DATE.—The amendment made by
 25 this section shall apply to distributions after February 13,
 26 2003.

1 **SEC. 203. REPEAL OF SPECIAL RULES FOR FASITS.**

2 (a) IN GENERAL.—Part V of subchapter M of chap-
3 ter 1 of the Internal Revenue Code of 1986 (relating to
4 financial asset securitization investment trusts) is hereby
5 repealed.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (6) of section 56(g) of the Inter-
8 nal Revenue Code of 1986 is amended by striking
9 “REMIC, or FASIT” and inserting “or REMIC”.

10 (2) Clause (ii) of section 382(l)(4)(B) of such
11 Code is amended by striking “a REMIC to which
12 part IV of subchapter M applies, or a FASIT to
13 which part V of subchapter M applies,” and insert-
14 ing “or a REMIC to which part IV of subchapter M
15 applies,”.

16 (3) Paragraph (1) of section 582(c) of such
17 Code is amended by striking “, and any regular in-
18 terest in a FASIT,”.

19 (4) Subparagraph (E) of section 856(c)(5) of
20 such Code is amended by striking the last sentence.

21 (5) Paragraph (5) of section 860G(a) of such
22 Code is amended by adding “and” at the end of sub-
23 paragraph (B), by striking “, and” at the end of
24 subparagraph (C) and inserting a period, and by
25 striking subparagraph (D).

1 (6) Subparagraph (C) of section 1202(e)(4) of
 2 such Code is amended by striking “REMIC, or
 3 FASIT” and inserting “or REMIC”.

4 (7) Subparagraph (C) of section 7701(a)(19) of
 5 such Code is amended by adding “and” at the end
 6 of clause (ix), by striking “, and” at the end of
 7 clause (x) and inserting a period, and by striking
 8 clause (xi).

9 (8) The table of parts for subchapter M of
 10 chapter 1 of such Code is amended by striking the
 11 item relating to part V.

12 (c) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-
 14 graph (2), the amendments made by this section
 15 shall take effect on February 14, 2003.

16 (2) EXCEPTION FOR EXISTING FASITS.—The
 17 amendments made by this section shall not apply to
 18 any FASIT in existence on the date of the enact-
 19 ment of this Act to the extent that regular interests
 20 issued by the FASIT before such date continue to
 21 remain outstanding in accordance with the original
 22 terms of issuance of such interests.

1 **SEC. 204. EXPANDED DISALLOWANCE OF DEDUCTION FOR**
 2 **INTEREST ON CONVERTIBLE DEBT.**

3 (a) IN GENERAL.—Paragraph (2) of section 163(l)
 4 of the Internal Revenue Code of 1986 is amended by strik-
 5 ing “or a related party” and inserting “or equity held by
 6 the issuer (or any related party) in any other person”.

7 (b) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED
 8 BY DEALERS IN SECURITIES.—Section 163(l) of the In-
 9 ternal Revenue Code of 1986 is amended by redesignating
 10 paragraphs (4) and (5) as paragraphs (5) and (6) and
 11 by inserting after paragraph (3) the following new para-
 12 graph:

13 “(4) EXCEPTION FOR CERTAIN INSTRUMENTS
 14 ISSUED BY DEALERS IN SECURITIES.—For purposes
 15 of this subsection, the term ‘disqualified debt instru-
 16 ment’ does not include indebtedness issued by a
 17 dealer in securities (or a related party) which is pay-
 18 able in, or by reference to, equity (other than equity
 19 of the issuer or a related party) held by such dealer
 20 in its capacity as a dealer in securities. For purposes
 21 of this paragraph, the term ‘dealer in securities’ has
 22 the meaning given such term by section 475.”.

23 (c) CONFORMING AMENDMENT.—Paragraph (3) of
 24 section 163(l) of the Internal Revenue Code of 1986 is
 25 amended by striking “or a related party” in the material

1 preceding subparagraph (A) and inserting “or any other
2 person”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to debt instruments issued after
5 February 13, 2003.

6 **SEC. 205. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
7 **FITS UNDER SECTION 269.**

8 (a) IN GENERAL.—Subsection (a) of section 269 of
9 the Internal Revenue Code of 1986 (relating to acqui-
10 sitions made to evade or avoid income tax) is amended to
11 read as follows:

12 “(a) IN GENERAL.—If—

13 “(1)(A) any person acquires stock in a corpora-
14 tion, or

15 “(B) any corporation acquires, directly or indi-
16 rectly, property of another corporation and the basis
17 of such property, in the hands of the acquiring cor-
18 poration, is determined by reference to the basis in
19 the hands of the transferor corporation, and

20 “(2) the principal purpose for which such acqui-
21 sition was made is evasion or avoidance of Federal
22 income tax by securing the benefit of a deduction,
23 credit, or other allowance,

24 then the Secretary may disallow such deduction, credit,
25 or other allowance.”.

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to stock and property acquired
 3 after February 13, 2003.

4 **SEC. 206. MODIFICATIONS OF CERTAIN RULES RELATING**
 5 **TO CONTROLLED FOREIGN CORPORATIONS.**

6 (a) LIMITATION ON EXCEPTION FROM PFIC RULES
 7 FOR UNITED STATES SHAREHOLDERS OF CONTROLLED
 8 FOREIGN CORPORATIONS.—Paragraph (2) of section
 9 1297(e) of the Internal Revenue Code of 1986 (relating
 10 to passive investment company) is amended by adding at
 11 the end the following flush sentence:

12 “Such term shall not include any period if there is
 13 only a remote likelihood of an inclusion in gross in-
 14 come under section 951(a)(1)(A)(i) of subpart F in-
 15 come of such corporation for such period.”.

16 (b) EFFECTIVE DATE.—The amendment made by
 17 this section shall apply to taxable years on controlled for-
 18 eign corporation beginning after February 13, 2003, and
 19 to taxable years of United States shareholder in which or
 20 with which such taxable years of controlled foreign cor-
 21 porations end.

22 **SEC. 207. CONTROLLED ENTITIES INELIGIBLE FOR REIT**
 23 **STATUS.**

24 (a) IN GENERAL.—Subsection (a) of section 856 of
 25 the Internal Revenue Code of 1986 (relating to definition

1 of real estate investment trust) is amended by striking
 2 “and” at the end of paragraph (6), by redesignating para-
 3 graph (7) as paragraph (8), and by inserting after para-
 4 graph (6) the following new paragraph:

5 “(7) which is not a controlled entity (as defined
 6 in subsection (l)); and”.

7 (b) CONTROLLED ENTITY.—Section 856 of the Inter-
 8 nal Revenue Code of 1986 is amended by adding at the
 9 end the following new subsection:

10 “(l) CONTROLLED ENTITY.—

11 “(1) IN GENERAL.—For purposes of subsection
 12 (a)(7), an entity is a controlled entity if, at any time
 13 during the taxable year, one person (other than a
 14 qualified entity)—

15 “(A) in the case of a corporation, owns
 16 stock—

17 “(i) possessing at least 50 percent of
 18 the total voting power of the stock of such
 19 corporation, or

20 “(ii) having a value equal to at least
 21 50 percent of the total value of the stock
 22 of such corporation, or

23 “(B) in the case of a trust, owns beneficial
 24 interests in the trust which would meet the re-

1 quirements of subparagraph (A) if such inter-
 2 ests were stock.

3 “(2) QUALIFIED ENTITY.—For purposes of
 4 paragraph (1), the term ‘qualified entity’ means—

5 “(A) any real estate investment trust, and

6 “(B) any partnership in which one real es-
 7 tate investment trust owns at least 50 percent
 8 of the capital and profits interests in the part-
 9 nership.

10 “(3) ATTRIBUTION RULES.—For purposes of
 11 this paragraphs (1) and (2)—

12 “(A) IN GENERAL.—Rules similar to the
 13 rules of subsections (d)(5) and (h)(3) shall
 14 apply; except that section 318(a)(3)(C) shall
 15 not be applied under such rules to treat stock
 16 owned by a qualified entity as being owned by
 17 a person which is not a qualified entity.

18 “(B) STAPLED ENTITIES.—A group of en-
 19 tities which are stapled entities (as defined in
 20 section 269B(c)(2)) shall be treated as one per-
 21 son.

22 “(4) EXCEPTION FOR CERTAIN NEW REITS.—

23 “(A) IN GENERAL.—The term ‘controlled
 24 entity’ shall not include an incubator REIT.

1 “(B) INCUBATOR REIT.—A corporation
2 shall be treated as an incubator REIT for any
3 taxable year during the eligibility period if it
4 meets all the following requirements for such
5 year:

6 “(i) The corporation elects to be treat-
7 ed as an incubator REIT.

8 “(ii) The corporation has only voting
9 common stock outstanding.

10 “(iii) Not more than 50 percent of the
11 corporation’s real estate assets consist of
12 mortgages.

13 “(iv) From not later than the begin-
14 ning of the last half of the second taxable
15 year, at least 10 percent of the corpora-
16 tion’s capital is provided by lenders or eq-
17 uity investors who are unrelated to the cor-
18 poration’s largest shareholder.

19 “(v) The corporation annually in-
20 creases the value of its real estate assets
21 by at least 10 percent.

22 “(vi) The directors of the corporation
23 adopt a resolution setting forth an intent
24 to engage in a going public transaction.

1 No election may be made with respect to any
2 REIT if an election under this subsection was
3 in effect for any predecessor of such REIT.

4 “(C) ELIGIBILITY PERIOD.—

5 “(i) IN GENERAL.—The eligibility pe-
6 riod (for which an incubator REIT election
7 can be made) begins with the REIT’s sec-
8 ond taxable year and ends at the close of
9 the REIT’s third taxable year, except that
10 the REIT may, subject to clauses (ii), (iii),
11 and (iv), elect to extend such period for an
12 additional 2 taxable years.

13 “(ii) GOING PUBLIC TRANSACTION.—

14 A REIT may not elect to extend the eligi-
15 bility period under clause (i) unless it en-
16 ters into an agreement with the Secretary
17 that if it does not engage in a going public
18 transaction by the end of the extended eli-
19 gibility period, it shall pay Federal income
20 taxes for the 2 years of the extended eligi-
21 bility period as if it had not made an incu-
22 bator REIT election and had ceased to
23 qualify as a REIT for those 2 taxable
24 years.

1 “(iii) RETURNS, INTEREST, AND NO-
2 TICE.—

3 “(I) RETURNS.—In the event the
4 corporation ceases to be treated as a
5 REIT by operation of clause (ii), the
6 corporation shall file any appropriate
7 amended returns reflecting the change
8 in status within 3 months of the close
9 of the extended eligibility period.

10 “(II) INTEREST.—Interest shall
11 be payable on any tax imposed by rea-
12 son of clause (ii) for any taxable year
13 but, unless there was a finding under
14 subparagraph (D), no substantial un-
15 derpayment penalties shall be im-
16 posed.

17 “(III) NOTICE.—The corporation
18 shall, at the same time it files its re-
19 turns under subclause (I), notify its
20 shareholders and any other persons
21 whose tax position is, or may reason-
22 ably be expected to be, affected by the
23 change in status so they also may file
24 any appropriate amended returns to
25 conform their tax treatment consistent

1 with the corporation's loss of REIT
2 status.

3 “(IV) REGULATIONS.—The Sec-
4 retary shall provide appropriate regu-
5 lations setting forth transferee liabil-
6 ity and other provisions to ensure col-
7 lection of tax and the proper adminis-
8 tration of this provision.

9 “(iv) Clauses (ii) and (iii) shall not
10 apply if the corporation allows its incu-
11 bator REIT status to lapse at the end of
12 the initial 2-year eligibility period without
13 engaging in a going public transaction if
14 the corporation is not a controlled entity as
15 of the beginning of its fourth taxable year.
16 In such a case, the corporation's directors
17 may still be liable for the penalties de-
18 scribed in subparagraph (D) during the eli-
19 gibility period.

20 “(D) SPECIAL PENALTIES.—If the Sec-
21 retary determines that an incubator REIT elec-
22 tion was filed for a principal purpose other than
23 as part of a reasonable plan to undertake a
24 going public transaction, an excise tax of
25 \$20,000 shall be imposed on each of the cor-

1 poration’s directors for each taxable year for
2 which an election was in effect.

3 “(E) GOING PUBLIC TRANSACTION.—For
4 purposes of this paragraph, a going public
5 transaction means—

6 “(i) a public offering of shares of the
7 stock of the incubator REIT;

8 “(ii) a transaction, or series of trans-
9 actions, that results in the stock of the in-
10 cubator REIT being regularly traded on an
11 established securities market and that re-
12 sults in at least 50 percent of such stock
13 being held by shareholders who are unre-
14 lated to persons who held such stock before
15 it began to be so regularly traded; or

16 “(iii) any transaction resulting in
17 ownership of the REIT by 200 or more
18 persons (excluding the largest single share-
19 holder) who in the aggregate own at least
20 50 percent of the stock of the REIT.

21 For the purposes of this subparagraph, the
22 rules of paragraph (3) shall apply in deter-
23 mining the ownership of stock.

1 “(F) DEFINITIONS.—The term ‘established
2 securities market’ shall have the meaning set
3 forth in the regulations under section 897.”.

4 (c) CONFORMING AMENDMENT.—Paragraph (2) of
5 section 856(h) of the Internal Revenue Code of 1986 is
6 amended by striking “and (6)” each place it appears and
7 inserting “, (6), and (7)”.

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—The amendments made by
10 this section shall apply to taxable years ending after
11 May 8, 2003.

12 (2) EXCEPTION FOR EXISTING CONTROLLED
13 ENTITIES.—The amendments made by this section
14 shall not apply to any entity which is a controlled
15 entity (as defined in section 856(l) of the Internal
16 Revenue Code of 1986, as added by this section) as
17 of May 8, 2003, which is a real estate investment
18 trust for the taxable year which includes such date,
19 and which has significant business assets or activi-
20 ties as of such date. For purposes of the preceding
21 sentence, an entity shall be treated as such a con-
22 trolled entity on May 8, 2003, if it becomes such an
23 entity after such date in a transaction—

1 (A) made pursuant to a written agreement
 2 which was binding on such date and at all times
 3 thereafter, or

4 (B) described on or before such date in a
 5 filing with the Securities and Exchange Com-
 6 mission required solely by reason of the trans-
 7 action.

8 **Subtitle B—Extension of Internal** 9 **Revenue Service User Fees**

10 **SEC. 211. EXTENSION OF INTERNAL REVENUE SERVICE** 11 **USER FEES.**

12 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
 13 enue Code of 1986 (relating to miscellaneous provisions)
 14 is amended by adding at the end the following new section:

15 **“SEC. 7528. INTERNAL REVENUE SERVICE USER FEES.**

16 “(a) GENERAL RULE.—The Secretary shall establish
 17 a program requiring the payment of user fees for—

18 “(1) requests to the Internal Revenue Service
 19 for ruling letters, opinion letters, and determination
 20 letters, and

21 “(2) other similar requests.

22 “(b) PROGRAM CRITERIA.—

23 “(1) IN GENERAL.—The fees charged under the
 24 program required by subsection (a)—

1 “(A) shall vary according to categories (or
2 subcategories) established by the Secretary,

3 “(B) shall be determined after taking into
4 account the average time for (and difficulty of)
5 complying with requests in each category (and
6 subcategory), and

7 “(C) shall be payable in advance.

8 “(2) EXEMPTIONS, ETC.—

9 “(A) IN GENERAL.—The Secretary shall
10 provide for such exemptions (and reduced fees)
11 under such program as the Secretary deter-
12 mines to be appropriate.

13 “(B) EXEMPTION FOR CERTAIN REQUESTS
14 REGARDING PENSION PLANS.—The Secretary
15 shall not require payment of user fees under
16 such program for requests for determination
17 letters with respect to the qualified status of a
18 pension benefit plan maintained solely by 1 or
19 more eligible employers or any trust which is
20 part of the plan. The preceding sentence shall
21 not apply to any request—

22 “(i) made after the later of—

23 “(I) the fifth plan year the pen-
24 sion benefit plan is in existence, or

1 “(II) the end of any remedial
 2 amendment period with respect to the
 3 plan beginning within the first 5 plan
 4 years, or

5 “(ii) made by the sponsor of any pro-
 6 totype or similar plan which the sponsor
 7 intends to market to participating employ-
 8 ers.

9 “(C) DEFINITIONS AND SPECIAL RULES.—
 10 For purposes of subparagraph (B)—

11 “(i) PENSION BENEFIT PLAN.—The
 12 term ‘pension benefit plan’ means a pen-
 13 sion, profit-sharing, stock bonus, annuity,
 14 or employee stock ownership plan.

15 “(ii) ELIGIBLE EMPLOYER.—The
 16 term ‘eligible employer’ means an eligible
 17 employer (as defined in section
 18 408(p)(2)(C)(i)(I)) which has at least 1
 19 employee who is not a highly compensated
 20 employee (as defined in section 414(q))
 21 and is participating in the plan. The deter-
 22 mination of whether an employer is an eli-
 23 gible employer under subparagraph (B)
 24 shall be made as of the date of the request
 25 described in such subparagraph.

1 “(iii) DETERMINATION OF AVERAGE
 2 FEES CHARGED.—For purposes of any de-
 3 termination of average fees charged, any
 4 request to which subparagraph (B) applies
 5 shall not be taken into account.

6 “(3) AVERAGE FEE REQUIREMENT.—The aver-
 7 age fee charged under the program required by sub-
 8 section (a) shall not be less than the amount deter-
 9 mined under the following table:

“Category	Average Fee
Employee plan ruling and opinion	\$250
Exempt organization ruling	\$350
Employee plan determination	\$300
Exempt organization determination	\$275
Chief counsel ruling	\$200.

10 “(c) TERMINATION.—No fee shall be imposed under
 11 this section with respect to requests made after September
 12 30, 2013.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The table of sections for chapter 77 of the
 15 Internal Revenue Code of 1986 is amended by add-
 16 ing at the end the following new item:

“Sec. 7528. Internal Revenue Service user fees.”.

17 (2) Section 10511 of the Revenue Act of 1987
 18 is repealed.

19 (3) Section 620 of the Economic Growth and
 20 Tax Relief Reconciliation Act of 2001 is repealed.

1 (c) LIMITATIONS.—Notwithstanding any other provi-
2 sion of law, any fees collected pursuant to section 7528
3 of the Internal Revenue Code of 1986, as added by sub-
4 section (a), shall not be expended by the Internal Revenue
5 Service unless provided by an appropriations Act.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to requests made after the date
8 of the enactment of this Act.

Calendar No. 118

108TH CONGRESS
1ST SESSION

S. 1162

A BILL

To amend the Internal Revenue Code of 1986 to
accelerate the increase in the refundability of the
child tax credit, and for other purposes.

JUNE 3, 2003

Read the second time and placed on the calendar